

General Information Letter: The credit for taxes paid to another state cannot exceed the Illinois tax payable on the amount of income that is actually double taxed.

October 19, 2000

Dear:

This is in response to your letter dated September 15, 2000. Given the nature of your inquiry and the information you provide, I am responding with a General Information Letter. This is not to be taken as a statement of Department policy or as a binding ruling by the Department. As general information gathered in response to your particular questions, however, I hope that it is helpful to you. See 86 Ill. Adm. Code 1200.120(b) and (c), which can be obtained at the following website:

<http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter you have stated the following:

This is a follow-up to our phone conversation on September 15, 2000. The problem arises from the instructions for the Illinois Schedule CR, Credit for Taxes Paid to Other States.

Per the instructions for Schedule CR, Step 2, line 2, column B, "For Illinois purposes, 'base income in the other state' means your federal adjusted gross income plus or minus any additions or subtractions that would make the income in that state comparable to the amount on Form IL-1040, Line 11." By following these instructions, the base income should be equivalent to line 5(sic) of the 1999 Missouri form MO-1040.

In looking at the 1999 Colorado form 104 this should be line 15; however, Form 104PN line N was used for this schedule CR. If this change were to be made, this taxpayer would have additional credit due.

I am enclosing copies of the notices received and the other state returns for all three taxpayers in question. I am also enclosing our response for the Colorado taxpayer. I appreciate your assistance and look forward to receiving your response.

Response

I examined the materials you provided me. I also examined additional materials in the possession of the Department that you had submitted when you filed the returns. In each instance, the Department's adjustment to the return is, in my opinion, correct. The amount determined to be proper for inclusion on Line 2a, Column B reflects the amount of income that is actually taxed elsewhere.

Because they must allow for variations in definitions of taxable income between Illinois and all 49 other states, the instructions for Schedule CR are, of necessity, somewhat vague and put some burden on the taxpayer to learn exactly how much Illinois taxable income has been subjected to tax in another state. I assume that you provided the individual returns as examples. Let me point out, however, that a partial year's residence that reduces the amount taxable by a state will also reduce the Illinois credit. If only one spouse's income is actually subjected to double tax, only that amount can be used as the basis for calculating the credit. In addition, income that is fully split between states because of allocation principles is not subject to double taxation and creates no credit.

If those taxpayers you have used for examples desire, they may question the correctness of the Department's adjustments further by pursuing a protest.

Please do not hesitate to call me at (217) 782-2844 if you have further questions. As stated above, this is a general information letter that does not constitute a statement of policy that applies, interprets or prescribes tax law. It is not binding on the Department as a definitive statement of law. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Sincerely,

Kent R. Steinkamp
Staff Attorney -- Income Tax